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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,693	11/30/2000	Wolfgang Fraas	112740-114	7197
29177	7590	11/24/2003	EXAMINER	
BELL, BOYD & LLOYD, LLC			JACK, TODD M	
P. O. BOX 1135			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690-1135			2133	7
DATE MAILED: 11/24/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

P09

Office Action Summary	Application No.	Applicant(s)	
	09/701,693	FRAAS ET AL.	
	Examiner Todd M Jack	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 November 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 June 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract contains a "Figure 2", not a reference to a figure. Correction is required. See MPEP § 608.01(b).

Drawings

New corrected drawings are required in this application because the drawings have hand-written in alterations. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 12-19 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson (6,526,092 B1).

Claim 12: Nelson teaches a controller circuit directly controls the functions and operations of all the hardware components. The controller is connected to the RAM circuit and is programmable. (col. 3, lines 17-42) The controller is connected to the PROM circuit, which includes non-volatile memory in which executable control programs for the main controller circuits are stored (col. 3, lines 31-36 and col. 3, lines 53-58).

Claim 13: Nelson teaches a PC generating checksum data. If the checksum data byte generated by the modem, the data bytes are stored into RAM. An “OK” response is sent to the remote PC. (col. 21, lines 20-39)

Claim 14: Nelson teaches a circuit with a memory incorporated in a power supply circuit (FIG. 6C).

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Claim 15: Nelson teaches bytes being programmed into PROM, which can accommodate code (col. 21, lines 23-27)

Claim 16: Nelson teaches the PROM contains operation code (col. 21, lines 24-31).

Claim 17: Nelson teaches a data record with information which is stored into the memory buffer. A read and process file routine is completed. Control program queries the user to ensure that the correct file to be programmed into the modem has been identified (col. 11, lines 5-28)

Claim 18: Nelson teaches the use of a series of codes. If the modem responds with the correct code, the computer will assume that no change in speed is necessary. (col. 18, lines 55-61).

Claim 19: Nelson teaches the checksum is compared to the data received. (col. 20, lines 19-28) Nelson teaches a controller circuit directly controls the functions and operations of all the hardware components. The controller is connected to the RAM circuit and is programmable. (col. 3, lines 17-42) The controller is connected to the PROM circuit, which includes non-volatile memory in which executable control programs for the main controller circuits are stored (col. 3, lines 31-36 and col. 3, lines 53-58).

Claim 21: Nelson teaches a digital signal processor chip consisting of a ROM-coded digital signal processor (col. 5, lines 18-21).

Claim 22: Nelson teaches a system including a telephone coder-decoder and a digital signal processor for communicating over the telephone line interface using a plurality of telecommunications standards. This system switches between FAX and modem protocols. (col. 3, lines 11-42)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fryer.

Claim 20: Nelson fails to teach a smart card reader as the identification device. Fryer teaches a smart card used with a computer or electronic circuit board with built-in logic or firmware that give it some kind of independent decision-making ability (page 439, col. 1, paragraph 8). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Nelson's firmware upgrade feature by including a smart card reader. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so in order to identify the user through the use of a smart card.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M Jack whose telephone number is 703-305-1027. The examiner can normally be reached on M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.



Todd Jack
703-305-1027



Guy J. Lamare
for

Albert DeCady
Primary Examiner